

SECTION 7. APPOINTMENTS, PROBATIONARY PERIOD, AND PROMOTIONAL PROBATIONARY PERIOD

7-1. Use of eligible list. If a department director determines that a vacant position should be announced as open for competition among qualified applicants, the department director must select an individual for appointment or promotion from an eligible list.

- (a) Consistent with equal employment opportunity policies, the department director may choose any individual from the highest rating category.
- (b) The department director must be able to justify the selection and must comply with priority consideration provisions in Sections 6-9, 6-10, and 30-4 of these Regulations.
- (c) If the department director selects an individual from a lower rating category, the department director must justify the selection in writing. In cases where an individual from a higher rating category is bypassed, the department director's selection is not final unless it is approved by the CAO.

7-2. Probationary period; promotional probationary period.

- (a) ***Purpose of probationary period and promotional probationary period.***
 - (1) A person appointed to a full-time or part-time merit system position must serve a probationary period as a continuation of the rating process to demonstrate proper attitude and ability for the position.
 - (2) A person appointed to a temporary position does not serve a probationary period.
 - (3) An employee promoted to a full-time or part-time merit system position must serve a promotional probationary period in order to demonstrate that the employee is able to perform the duties of the new job satisfactorily.
- (b) ***Length of probationary period.***
 - (1) The probationary period is 12 months for an employee newly appointed to a full-time or part-time position, unless the employee is appointed to an OPT/SLT bargaining unit position or is a police officer or deputy sheriff.

- (2) The probationary period for an employee appointed to a full-time or part-time OPT/SLT bargaining unit position is 6 to 12 months, unless the employee is a deputy sheriff.
 - (3) The probationary period for a police officer or deputy sheriff continues for 12 months after the employee has sworn status.
 - (4) The promotional probationary period is 6 months for an employee newly promoted to a full-time or part-time position.
- (c) ***Extension of the probationary period or promotional probationary period.***
 - (1) The CAO may approve an extension of the probationary period or promotional probationary period for a person appointed or promoted to a full-time or part-time merit system position, up to 50 percent of the original probationary period.
 - (2) In extraordinary circumstances the CAO may approve a further extension not to exceed an additional 6 months. Extraordinary circumstances may include the employee's inability to complete the required probationary period within 18 months because of a medical condition that affects the employee's ability to perform the essential functions of the job.
- (d) ***Evaluation and counseling during the probationary period or promotional probationary period.*** During the probationary period or promotional probationary period, a supervisor must observe an employee's work performance and explain to an employee whose work performance is marginal or inadequate the areas that need improvement and specific problems that the employee must resolve.
- (e) ***Termination during probation of a probationary employee.***
 - (1) A department director may immediately terminate a probationary employee at any time during the probationary period.
 - (2) A department director who terminates a probationary employee must ensure that the employee receives severance pay as follows:
 - (A) 2 weeks if the employee's probationary period lasted at least 9 months;
 - (B) one week if the employee's probationary period lasted for at least 3 months; or

- (C) none under these Regulations, if:
 - (i) the employee's probationary period lasted less than 3 months;
 - (ii) the department director terminated the employee for materially falsifying information on the employment application or a document associated with the application or for gross misconduct, such as a violation of the County Charter, Code, regulations, or procedures, State or Federal laws, or a conviction for a criminal offense; or
 - (iii) the employee is a member of the Retirement Savings Plan and the employee's probationary period lasted at least one year, in which case the employee is eligible to receive severance pay under COMCOR 33.140.01, *Severance Pay for Certain Retirement Savings Plan Participants*.
- (3) A probationary employee who is terminated may not grieve or appeal the termination or a supervisor's failure to inform the employee that the employee's work performance was marginal or inadequate.
- (f) ***Reassignment of a merit system employee during the promotional probationary period.***
 - (1) The OHR Director may reassign a merit system employee who has been promoted if the employee's performance in the new position has been inadequate during the promotional probationary period. The OHR Director must reassign the employee to a position at the same grade as the employee had before the employee was promoted. The OHR Director must not reduce the grade of, or terminate, another employee to reassign the employee who was promoted.
 - (2) A department director should notify the OHR Director at least 30 calendar days before the end of the employee's promotional probationary period that the employee's performance in the promoted position is inadequate.
 - (3) The department director must give the employee at least 30 calendar days written notice of the employee's removal from the promoted position.
 - (4) A merit system employee who is reassigned during the promotional probationary period may file a grievance under Section 34 of these Regulations.

(g) ***Merit system status.***

- (1) OHR must notify the department director 60 calendar days before the end of a newly appointed employee's probationary period.
- (2) The department director may grant merit system status to an employee after the employee completes the required probationary period if the employee's performance, attendance, and conduct were satisfactory during the probationary period.
- (3) At the expiration of an employee's probationary period, a department director must:
 - (A) grant merit system status;
 - (B) extend the probationary period; or
 - (C) terminate the employee's appointment.

7-3. Use of temporary employees.

(a) ***Temporary employees other than short-term employees.***

- (1) A department director may use a temporary employee for up to 40 regularly scheduled hours per week for a maximum period of 12 months.
- (2) The CAO may approve an extension of a temporary appointment for an additional 6 months.
- (3) A department director may use a temporary employee indefinitely on an intermittent, seasonal, or substitute basis.

(b) ***Short-term County employees.*** Short-term employees are a category of temporary employees authorized by Section 33-20 of the County Code.

- (1) A department director may hire a short-term employee:
 - (A) when necessary to promote the efficient operation of the department; and
 - (B) without using an eligible list if the employee meets the minimum qualifications for the position and it is impractical to hire from an eligible list.

- (2) A department director must not employ a short-term employee for:
 - (A) more than 900 hours in a 12-month period; or
 - (B) more than 2 12-month periods.
- (3) The salary of a short-term employee must not exceed the hourly rate for the maximum salary of a grade 5 on the general salary schedule or a comparable pay grade.
- (c) ***Use of a temporary position to avoid paying benefits.*** A department director must not use a temporary position instead of a full-time or part-time position solely to avoid paying benefits to an employee.

7-4. Noncompetitive reappointment.

- (a) A department director may noncompetitively reappoint a former County employee if the individual:
 - (1) is reappointed to a position at the same or lower grade level than the employee held at the time of separation;
 - (2) meets the requirements for the position;
 - (3) passes a physical examination, if required for the position;
 - (4) completed the probationary period before separation;
 - (5) was in good standing at the time of separation and is eligible for reemployment; and
 - (6) applies for reappointment within 5 years after the date of separation.
- (b) The department director must obtain the OHR Director's approval of the noncompetitive reappointment.
- (c) Noncompetitive reappointment is the prerogative of management and not a right or entitlement of a former employee. A former employee may not file a grievance or appeal the denial of a non-competitive reappointment.

Editor's note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to probationary period or promotional probationary period
Firefighter/Rescuer	29, Promotions
OPT/SLT	12, Probationary Period for New Appointments and Promoted Employees
Police	12, Seniority 43, Discipline 52, Termination